

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID L. HOLCOMB, SR.,

Plaintiff,

v.

PFIZER INC.; and DOES 1-100,
INCLUSIVE,

Defendants.

Case No. 1:20-cv-01008-DAD-BAM

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR EXTENSION OF TIME
TO RESPOND TO DEFENDANT'S
MOTION FOR JUDGMENT ON THE
PLEADINGS**

(Doc. 33.)

On December 21, 2021, the Court issued an order setting a briefing schedule on Defendant Pfizer's pending Motion for Judgment on the Pleadings. Pursuant to that order, the Court directed Plaintiff David Holcomb, Sr., proceeding in pro se, to file a written response to Defendant's motion on or before January 31, 2022. (Doc. 32.)

On January 31, 2022, in lieu of an opposition or other response, Plaintiff filed the instant request for a 30-day extension of time to file his response to Defendant's Motion for Judgment on the Pleadings. (Doc. 33.) Plaintiff reports that an extension of time is necessary because he has been unable to obtain his medical records. Plaintiff explains that his doctor has been out of the office and was not expected to return until February 10, 2022. Plaintiff anticipated being supplied with his medical records upon his doctor's return. (*Id.* at 1.)

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1 On February 8, 2022, the Court directed Defendant to file an opposition or statement of
2 non-opposition to Plaintiff's motion within fourteen (14) days. (Doc. 34.) In response to the
3 Court's order, on February 14, 2022, Defendant filed a combined opposition to Plaintiff's motion
4 for extension of time and a reply in support of its motion for judgment on the pleadings. (Doc.
5 35.)

6 Defendant opposes the request for an additional extension of time, arguing primarily that
7 Plaintiff's medical records are irrelevant to its motion, which is judged by the sufficiency of
8 Plaintiff's allegations in the complaint. Defendant contends that its legal arguments do not turn
9 on facts specific to Plaintiff, but on the legal requirements of California and federal law. (*Id.* at 3-
10 4.) Defendant asserts that the Court should deny the requested extension and grant the motion for
11 judgment on the pleadings. However, if the Court grants Plaintiff's request for an extension of
12 time, Defendant seeks leave to file a further reply in support of its motion. (*Id.* at 4.)

13 Having considered the parties' arguments, and good cause appearing, Plaintiff's motion
14 for an extension of time to respond to Defendant's motion for judgment on the pleadings will be
15 granted. Fed. R. Civ. P. 6(b). Plaintiff is proceeding pro se and believes that his medical records
16 are pertinent and necessary for his response to Defendant's motion. (Doc. 33.) In an abundance
17 of caution, the Court finds it appropriate to grant Plaintiff a final extension of time to respond.
18 Plaintiff is cautioned, however, that further requests for extensions of time must be supported by
19 good cause.

20 Accordingly, IT IS HEREBY ORDERED as follows:

- 21 1. Plaintiff's request for a 30-day extension of time to respond to Defendant's Motion for
22 Judgment on the Pleadings is GRANTED.
- 23 2. Plaintiff shall file a written response to Defendant's Motion for Judgment on the
24 Pleadings on or before **March 17, 2022**. Plaintiff is advised that the failure to file a
25 timely opposition to the motion may be construed by the Court as a non-opposition to
26 the motion. See Local Rule 230(c).
- 27 3. Defendant shall serve and file a reply to Plaintiff's response on or before **March 31,**
28 **2022.**

4. The motion will be deemed submitted upon the record and briefs pursuant to the Standing Order in Light of Ongoing Judicial Emergency in the Eastern District of California. *See* Doc. 4-2.

IT IS SO ORDERED.

Dated: **February 15, 2022**

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE